

Senate Bill No. 78

CHAPTER 10

An act to amend Sections 11044, 20398, 68511.8, and 77206 of the Government Code, to amend Sections 830.2, 830.5, and 6126.1 of, and to amend and repeal Section 1465.8 of, the Penal Code, to amend Sections 1051, 1826, 1850, 1850.5, 1851, 2250, 2250.4, 2250.6, 2253, and 2620 of the Probate Code, and to add Part 2.5 (commencing with Section 19201) to Division 2 of the Public Contract Code, relating to the administration of justice, making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor March 24, 2011. Filed with
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LEGISLATIVE COUNSEL'S DIGEST

SB 78, Committee on Budget and Fiscal Review. Administration of justice.

(1) Existing law created the Legal Services Revolving Fund in the State Treasury. Existing law requires the Attorney General to charge the costs incurred in providing legal services. Existing law prohibits charges, except as approved by the Department of Finance, for legal services to be against the General Fund. Existing law requires the Controller to transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's Office; however, the Attorney General is prohibited from requesting an amount that exceeds the amount budgeted by the state agency for the Attorney General's legal services.

This bill would delete the prohibition that charges for legal services cannot be made against the General Fund. This bill would require the Controller to transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's office using the Controller's direct transfer process. This bill would require all disputes to be resolved in accordance with a specified provision of the State Administrative Manual.

(2) Existing law classifies certain police officers, sheriff deputies, and firefighters who have responsibility for the direct supervision of state peace officer/firefighter personnel as state peace officer/firefighter members under the Public Employees' Retirement System (PERS). Employees classified as safety members under PERS, including state peace officer/firefighter members, are generally entitled to higher benefits and subject to higher contribution rates than employees classified as miscellaneous or general members. Certain employees of the Office of the Inspector General are

peace officers and entitled to state peace officer/firefighter benefits under PERS.

This bill would include in the state peace officer/firefighter classification employees of the Office of the Inspector General who are no longer peace officers after the effective date of this act but who were hired as peace officers prior to April 1, 2011, or prior to the first day of the first pay period following the enactment of this act if this act is enacted after April 1, 2011.

(3) Existing law requires the Judicial Council to provide an annual status report to the chairpersons of the budget committee in each house of the Legislature and the Joint Legislative Budget Committee regarding the California Case Management System and Court Accounting and Reporting System on or before December 1 of each year until project completion. Existing law requires the Administrative Office of the Courts (AOC) to annually provide to those chairpersons copies of any independent project oversight report for the California Case Management System.

Existing law also provides that the California Case Management System, and all other administrative and infrastructure information technology projects of the Judicial Council or the courts with total costs estimated at more than \$5,000,000, shall be subject to the review and recommendations of the California Technology Agency, as specified. Existing law requires the Secretary of California Technology to submit a copy of those reviews and recommendations to the Joint Legislative Budget Committee.

This bill would instead require the Judicial Council to provide the above-described status report on or before December 1 of each year until the completion and full implementation of the project. The bill would also require the AOC to retain an independent consultant to review the California Case Management System and produce a written independent assessment of the system, as specified. The bill would, prior to the acceptance and deployment of the system, require the independent consultant to provide the written assessment to the AOC, require the AOC to provide a copy of the written assessment to legislative budget committees, as specified, and require the AOC to work with the development vendor to ensure that any flaws, defects, or risks identified in the assessment are remedied during the warranty period.

(4) Existing law provides that the Judicial Council may regulate the budget and fiscal management of the trial courts. Existing law requires the Administrative Office of the Courts to contract with the Controller to perform specified audits, except as specified.

This bill would require that the audits referenced above additionally determine compliance with the California Judicial Branch Contract Law, as described in (8) below.

(5) Existing law creates the independent Office of the Inspector General and provides that it is not a subdivision of any other government entity. The Inspector General and certain other employees of the office are peace officers provided that the primary duty of these peace officers is conducting audits of investigatory practices and other audits, as well as conducting

investigations, of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Board of Parole Hearings.

This bill would remove the Inspector General and other employees of his or her office as peace officers, except for those employees whose primary duties are conducting investigations of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, and the Board of Parole Hearings. The bill would make conforming changes. The bill would further make nonsubstantive, technical changes to these provisions.

(6) Existing law requires that \$40 be imposed on every conviction for a criminal offense, including traffic offenses, to ensure and maintain adequate funding for court security. Existing law requires that amount to be reduced to \$30 on July 1, 2011, and reduced to \$20 on July 1, 2013.

This bill would instead keep in effect the charge of \$40 until July 1, 2013, at which time the charge would be reduced to \$30. The bill would delete the provision reducing the charge to \$20.

(7) Existing law regulates the terms and conditions of conservatorships. Existing law authorizes a court to refer certain issues relating to a conservatorship to a court investigator and prescribes the duties of an investigator in this regard, which include interviewing specified relatives of a proposed conservatee, conducting investigations of, and reporting to a court about, the appropriateness of a conservatorship, and, to the extent practicable, reviewing accountings with a conservatee. Existing law requires a court to review each limited conservatorship one year after the appointment of the conservator and biennially thereafter. Existing law permits specified parties to file a petition for an appointment of a temporary guardian or a temporary conservator and establishes requirements for the petition and for notice of the hearing on the petition. Existing law also creates various requirements for a court in this regard, and for a court investigator, including interviewing a proposed conservatee and informing him or her of the nature, purpose, and effect of a temporary conservatorship.

This bill would provide that a superior court is not required to perform certain duties enacted by specified statutes in relation to conservatorships, as described above, until an appropriation is made that is identified for this purpose.

(8) The Public Contract Code generally governs contracts entered into by a state agency, including contracts for the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind, as prescribed, and the acquisition of goods and services, by the state agency, and also sets forth the requirements for the solicitation and evaluation of bids and the awarding of those contracts. For purposes of those laws, “state agency” does not include the courts, or any agency in the judicial branch of government.

This bill would create the California Judicial Branch Contract Law, which would apply specified provisions of the Public Contract Code that are applicable to state agencies and departments to specified contracts initially entered into or amended by judicial branch entities, as defined, on or after October 1, 2011, as provided. The bill would require specified contracts to

be subject to review by the Bureau of State Audits and all administrative and infrastructure information technology projects of the Judicial Council to be subject to review by the California Technology Agency, as specified.

This bill would provide that the California Judicial Branch Contract Law does not apply to procurement and contracting by judicial branch entities that are related to trial court construction, including, but not limited to, the planning, design, construction, rehabilitation, renovation, replacement, lease, or acquisition of trial court facilities.

This bill would also require the Judicial Council to provide a report containing certain information relating to procurement to the Joint Legislative Budget Committee twice a year, beginning in 2012, as specified, and, by January 15, 2013, to provide a report to the Joint Legislative Budget Committee on the process, transparency, costs, and timeliness of its construction procurement practices. The bill would also require the Legislative Analyst's Office to conduct an analysis of the findings. The Legislative Analyst's Office may request that the Department of General Services provide comparable information, as specified. The bill would require the audits referenced in (4) above to include an audit and report by the State Auditor on his or her assessment of the implementation of the California Judicial Branch Contract Law by the judicial branch. The bill would provide that the State Auditor shall be reimbursed by the judicial branch entity that is the subject of the audit for all reasonable costs associated with conducting that audit.

(9) The DNA Fingerprint, Unresolved Crime and Innocence Protection Act, an initiative measure, requires an additional penalty of one dollar for every \$10 or part thereof to be levied in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified. The act requires 25% of those moneys to be transferred to the state's DNA Identification Fund and specifies the purposes for which those funds may be used.

This bill would appropriate \$1,000 from the DNA Identification Fund to the Department of Justice for state operations, consistent with those purposes, in the 2011–12 fiscal year.

(10) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(11) This bill would declare that it is to take immediate effect as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 11044 of the Government Code is amended to read:

11044. (a) The Legal Services Revolving Fund is hereby created in the State Treasury. The Department of Justice shall administer this fund. Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General for investigation and litigation activities taken on behalf of the state agencies employing the legal services of the department and for investigation and litigation activities funded through judgments or settlements.

(b) For state agencies, departments, or programs that are charged for the costs of legal services rendered by the Attorney General, the Attorney General shall charge an amount sufficient to recover the costs incurred in providing the legal services. These funds shall be deposited into the Legal Services Revolving Fund.

(c) Upon the request of the Attorney General in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's office using the Controller's direct transfer process. Payments for these charges shall be credited to and in augmentation of the appropriation for the support of the Attorney General's office from which the cost of the services was or will be paid.

(d) A state agency that has a dispute regarding charges for legal services provided by the Attorney General shall notify the Attorney General, in writing, of the dispute and the basis for it. All disputes shall be resolved in accordance with subdivision (I) of Section 8474.1 of Chapter 8400 of the State Administrative Manual. Upon resolution of the dispute in favor of the state agency, the Attorney General shall provide a credit to the state agency for the amount of the charges in dispute.

SEC. 2. Section 20398 of the Government Code is amended to read:

20398. "State peace officer/firefighter member" also includes:

(a) (1) State officers and employees designated as peace officers as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and 830.5 of the Penal Code, or a firefighter whose principal duties consist of active firefighting/fire suppression, who is either excluded from the definition of state employee in subdivision (c) of Section 3513 or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, if the majority of his or her duties consists of one of the following:

(A) Responsibility for the direct supervision of state peace officer/firefighter personnel specified in Sections 20391, 20392, 20393, and 20395.

(B) Conducting investigations or audits of investigatory practices and other audits of, or in, the Department of Corrections and Rehabilitation.

(C) Administration of programs of an agency, department, or other organizational unit that is primarily responsible for active law enforcement or active firefighting/fire suppression.

(2) For purposes of this subdivision, “administration” means the actions of the employee designated as a peace officer/firefighter member in a position that is in the direct chain of command over an agency, department, or organizational unit in which the majority of employees are state peace officer/firefighter members as described in Section 20391, 20392, 20393, or 20395.

(b) “State peace officer/firefighter member” shall not include persons whose primary responsibilities are limited to personnel administration, budgeting, public affairs, data processing or information technology, governmental relations, or legal support, or administration or oversight of these responsibilities.

(c) “State peace officer/firefighter member” shall include individuals hired prior to January 1, 2009, who do not meet the criteria in subdivision (a) if those individuals have been continuously employed in positions that were deemed to come within the “state peace officer/firefighter member” classification pursuant to this section prior to January 1, 2009.

(d) “State peace officer/firefighter member” shall include individuals hired prior to April 1, 2011, or the first day of the first pay period following the enactment of the act that added this subdivision if that act is enacted after April 1, 2011, who do not meet the criteria in subdivision (a) if those individuals have been continuously employed in positions in the Office of the Inspector General that were deemed to come within the “state peace officer/firefighter member” classification pursuant to this section prior to April 1, 2011, or prior to the first day of the first pay period following the enactment of the act that added this subdivision if that act is enacted after April 1, 2011.

(e) The Department of Personnel Administration shall annually determine which classes meet the conditions described in this section and are not classes specified in Sections 20391, 20392, 20393, and 20395, and report its findings to the Legislature and to this system, to be effective July 1 of each year. An agency or department shall not designate a classification as a “state peace officer/firefighter member” classification pursuant to this section without prior approval from the Department of Personnel Administration.

(f) Members who are reclassified pursuant to this section may file an irrevocable election to remain subject to their prior retirement formula and the corresponding rate of contributions. The Secretary of the Department of Corrections and Rehabilitation may, upon appointment to that office on or after January 1, 1999, file an irrevocable election to be subject to the industrial formula and the corresponding rate of contributions. The elections shall be filed within 90 days of notification by the board. Members who so elect shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for the service included in the federal system.

SEC. 3. Section 68511.8 of the Government Code is amended to read:

68511.8. (a) On or before December 1 of each year until the completion and full implementation of the project, the Judicial Council shall provide an annual status report to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee with regard to the California Case Management System and Court Accounting and Reporting System. The report shall include, but is not limited to, all of the following:

- (1) Project accomplishments to date.
- (2) Project activities underway.
- (3) Proposed activities.

(4) Annual revenues and expenditures to date in support of these projects, which shall include all costs for the Administrative Office of the Courts and incremental court personnel, contracts, and hardware and software.

(b) On or before December 1 of each year until project completion, the Administrative Office of the Courts shall provide, on an annual basis to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee, copies of any independent project oversight report for the California Case Management System. The independent project oversight report shall include, but is not limited to, a review and an assessment of project activities, identification of deficiencies, and recommendations to the Administrative Office of the Courts on how to address those deficiencies. The Administrative Office of the Courts shall include in the annual submission descriptions on actions taken to address identified deficiencies.

(c) Within 18 months of fully implementing the California Case Management System and the Court Accounting and Reporting System projects, the Administrative Office of the Courts shall provide to the chairperson of the budget committee in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee, a postimplementation evaluation report for each project. The report shall include, but is not limited to, a summary of the project background, project results, and an assessment of the attainment of project objectives.

(d) From the amount of funds that the Judicial Council has approved for the development and implementation of the California Case Management System (CCMS), the Administrative Office of the Courts shall retain an independent consultant to review the system and produce a written independent assessment. The independent consultant who performs this independent assessment shall be selected through a competitive process. The independent assessment shall include, at a minimum, all of the following:

- (1) An evaluation of whether the appropriate software development processes were used to develop the system.
- (2) A determination of whether the system was well designed, based on generally accepted software development practices.
- (3) Testing of the system to detect potential flaws in the system's ability to perform as expected.

(e) Prior to acceptance of the CCMS product from the development vendor, and before deploying CCMS to any court, all of the following shall have occurred:

(1) The independent consultant shall provide the written independent assessment to the Administrative Office of the Courts.

(2) The Administrative Office of the Courts shall provide a copy of the written independent assessment to each of the chairs and vice-chairs of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget no later than 10 days after it receives the assessment from the independent consultant.

(f) Upon receiving the results of the independent assessment, the Administrative Office of the Courts shall work with the development vendor to ensure that any flaws, defects, or risks identified in the independent assessment are remedied during the warranty period.

SEC. 4. Section 77206 of the Government Code is amended to read:

77206. (a) Notwithstanding any other law, the Judicial Council may regulate the budget and fiscal management of the trial courts. The Judicial Council, in consultation with the Controller, shall maintain appropriate regulations for recordkeeping and accounting by the courts. The Judicial Council shall seek to ensure, by these provisions, both of the following:

(1) That the fiscal affairs of the trial courts are managed efficiently, effectively, and responsibly.

(2) That all moneys collected by the courts, including filing fees, fines, forfeitures, and penalties, and all revenues and expenditures relating to court operations are known.

The Judicial Council may delegate its authority under this section, when appropriate, to the Administrative Director of the Courts.

(b) Regulations, rules, and reporting requirements adopted pursuant to this chapter shall be exempt from review and approval or other processing by the Office of Administrative Law as provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(c) The Controller, at the request of the Legislature, may perform and publish financial and fiscal compliance audits of the reports of court revenues and expenditures. The Controller shall report the results of these audits to the Legislature and the Judicial Council.

(d) The Judicial Council shall provide for the transmission of summary information concerning court revenues and expenditures to the Controller.

(e) The Judicial Council shall adopt rules to provide for reasonable public access to budget allocation and expenditure information at the state and local levels.

(f) The Judicial Council shall adopt rules ensuring that, upon written request, the trial courts provide, in a timely manner, information relating to the administration of the courts, including financial information and other information that affects the wages, hours, and working conditions of trial court employees.

(g) (1) The Judicial Council or its representatives may do any of the following:

(A) Inspect, review, and perform comprehensive oversight and analysis of court financial records wherever they may be located.

(B) Investigate allegations of financial impropriety or mismanagement.

(2) The authority granted pursuant to this subdivision shall not substitute for, or conflict with, the audits conducted pursuant to subdivisions (h) and (i).

(h) (1) Commencing not earlier than July 1, 2011, and not later than December 15, 2012, the entity contracted with pursuant to subdivision (j) shall establish a pilot program to audit six trial courts. That entity shall select the trial courts using the following criteria:

(A) Two trial courts selected from counties with a population of 200,000 or less.

(B) Two trial courts selected from counties with a population greater than 200,000 and less than 750,000.

(C) Two trial courts selected from counties with a population of 750,000 or greater.

The audits shall be performed in accordance with generally accepted government auditing standards and shall determine the trial court's compliance with governing statutes, rules, and regulations relating to the revenues, expenditures, and fund balances of all material and significant funds, including state General Fund funds, funds generated from fees or fines, federal funds, grants, and any other funds within the trial court's administration or control. Pursuant to Section 19210 of the Public Contract Code, the audit shall also determine compliance with Part 2.5 (commencing with Section 19201) of Division 2 of the Public Contract Code. The audits required by this section shall be in addition to any audit regularly conducted pursuant to any other provision of law.

(2) Based on the results of the pilot program audits described in paragraph (1), the entity contracted with pursuant to subdivision (j) shall, on or before December 15, 2013, commence an audit of the trial courts, provided that every trial court is audited in the manner prescribed by this section at least once every four years. The audits shall be performed in accordance with generally accepted government auditing standards and shall determine the trial court's compliance with governing statutes, rules, and regulations relating to the revenues, expenditures, and fund balances of all material and significant funds, including state General Fund funds, funds generated from fees or fines, federal funds, grants, or any other funds within the trial court's administration or control. Pursuant to Section 19210 of the Public Contract Code, the audit shall also determine compliance with Part 2.5 (commencing with Section 19201) of Division 2 of the Public Contract Code. The audits required by this paragraph shall be in addition to any audit regularly conducted pursuant to any other provision of law.

(3) Notwithstanding Section 10231.5, the auditing entity shall compile the trial court audit findings and report the results of these audits to the Legislature, the Judicial Council, and the Department of Finance no later than April 1 of each year. An audit report shall not be considered final until

the audited entity is provided a reasonable opportunity to respond and the response is included with, or incorporated into, the report.

(4) The reasonable and necessary contracted cost of the audit conducted pursuant to this subdivision shall be paid from funds of the local trial court being audited.

(i) (1) On or before December 15, 2013, and biennially thereafter, the entity contracted with pursuant to subdivision (j) shall perform an audit of the Administrative Office of the Courts in accordance with generally accepted government auditing standards and shall determine the Administrative Office of the Court's compliance with governing statutes, rules, regulations, and policies relating to the revenues, expenditures, and fund balances of all material and significant funds under the administration, jurisdiction, or control of the Administrative Office of the Courts. Pursuant to Section 19210 of the Public Contract Code, the audit shall also determine compliance of the Administrative Office of the Courts, the Habeas Corpus Resource Center, and the appellate courts with Part 2.5 (commencing with Section 19201) of Division 2 of the Public Contract Code.

(2) Notwithstanding Section 10231.5, the auditing entity shall provide a copy of the final audit report of the Administrative Office of the Courts to the Legislature, the Judicial Council, and the Department of Finance upon issuance. An audit report shall not be considered final until the audited entity is provided a reasonable opportunity to respond and the response is included with, or incorporated into, the report.

(3) Any reasonable and necessary contracted costs incurred by the auditing entity pursuant to this subdivision shall be reimbursed by the Administrative Office of the Courts.

(j) The Administrative Office of the Courts shall contract with the Controller to perform the audits described in subdivisions (h) and (i), unless either the Bureau of State Audits or the Department of Finance demonstrates that it can perform the audits pursuant to the same timeframes, scope, and methodology as the Controller for a cost that is less than that proposed by the Controller. In that case, the Administrative Office of the Courts may contract with the state entity named in this subdivision that is most cost effective. The Administrative Office of the Courts shall provide written notification to the chairs of the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and the Senate and Assembly Committees on Judiciary, if the Administrative Office of the Courts contracts with an entity other than the Controller. The contract period for any contract entered into pursuant to this section shall not exceed four years from the date of commencement.

(k) A report submitted pursuant to subdivision (h) or (i) shall be submitted in compliance with Section 9795.

SEC. 5. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1

of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) (1) Any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation, provided that the primary duties of the peace officer shall be the investigation or apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, the transportation of those persons, the investigation of any violation of criminal law discovered while performing the usual and authorized duties of employment, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, provided that the primary duties shall be criminal investigations of Department of Corrections and Rehabilitation personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision, the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace

officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

(j) Employees of the Inspector General as designated by the Inspector General are peace officers, provided that the primary duty of these peace officers shall be conducting investigations of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, and the Board of Parole Hearings.

SEC. 6. Section 830.5 of the Penal Code, as amended by Section 66 of Chapter 178 of the Statutes of 2010, is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Juvenile Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole or of probation by any person in this state on parole or probation.

(2) To the escape of any inmate or ward from a state or local institution.

(3) To the transportation of persons on parole or probation.

(4) To violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his or her employment.

(5) (A) To the rendering of mutual aid to any other law enforcement agency.

(B) For the purposes of this subdivision, "parole agent" shall have the same meaning as parole officer of the Department of Corrections and Rehabilitation or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(C) Any parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Parole Operations, is authorized to carry firearms, but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson. The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall develop a policy for arming peace officers of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, who comprise

“high-risk transportation details” or “high-risk escape details” no later than June 30, 1995. This policy shall be implemented no later than December 31, 1995.

(D) The Department of Corrections and Rehabilitation, Division of Juvenile Justice, shall train and arm those peace officers who comprise tactical teams at each facility for use during “high-risk escape details.”

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of Mental Health or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Justice, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person’s right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole Board, to review the director’s or the chairperson’s decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer or designee to maintain his or her eligibility to carry concealable firearms off duty. Failure to maintain quarterly qualifications by an officer or designee with any concealable firearms carried off duty shall constitute good cause to suspend or revoke that person’s right to carry firearms off duty.

(e) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department

to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(f) The secretary shall promulgate regulations consistent with this section.

(g) "High-risk transportation details" and "high-risk escape details" as used in this section shall be determined by the secretary, or his or her designee. The secretary, or his or her designee, shall consider at least the following in determining "high-risk transportation details" and "high-risk escape details": protection of the public, protection of officers, flight risk, and violence potential of the wards.

(h) "Transportation detail" as used in this section shall include transportation of wards outside the facility, including, but not limited to, court appearances, medical trips, and interfacility transfers.

SEC. 7. Section 6126.1 of the Penal Code is amended to read:

6126.1. (a) The Inspector General shall establish a certification program for peace officers under the Inspector General's jurisdiction who are subject to Section 830.2. The peace officer training course shall be consistent with the standard courses utilized by the Commission on Peace Officer Standards and Training and other major investigative offices, such as county sheriff and city police departments and the Department of the California Highway Patrol.

(b) Beginning January 1, 1999, peace officers under the Inspector General's jurisdiction conducting investigations for the Office of the Inspector General shall complete investigation training consistent with standard courses utilized by other major law enforcement investigative offices and be certified within six months of employment.

(c) Beginning January 1, 1999, all peace officers under the Inspector General's jurisdiction shall successfully pass a psychological screening exam before becoming employed with the Office of the Inspector General.

SEC. 8. Section 1465.8 of the Penal Code, as amended by Section 33 of Chapter 720 of the Statutes of 2010, is amended to read:

1465.8. (a) (1) To ensure and maintain adequate funding for court security, a charge of forty dollars (\$40) shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) For the purposes of this section, "conviction" includes the dismissal of a traffic violation on the condition that the defendant attend a court-ordered traffic violator school, as authorized by Sections 41501 and 42005 of the Vehicle Code. This security charge shall be deposited in accordance with subdivision (d), and may not be included with the fee calculated and distributed pursuant to Section 42007 of the Vehicle Code.

(b) This charge shall be in addition to the state penalty assessed pursuant to Section 1464 and may not be included in the base fine to calculate the state penalty assessment as specified in subdivision (a) of Section 1464. The penalties authorized by Chapter 12 (commencing with Section 76000)

of Title 8 of the Government Code, and the state surcharge authorized by Section 1465.7, do not apply to this charge.

(c) When bail is deposited for an offense to which this section applies, and for which a court appearance is not necessary, the person making the deposit shall also deposit a sufficient amount to include the charge prescribed by this section.

(d) Notwithstanding any other provision of law, the charges collected pursuant to subdivision (a) shall all be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund. The charges collected pursuant to this section shall not be subject to subdivision (e) of Section 1203.1d, but shall be disbursed under subdivision (b) of Section 1203.1d.

(e) The Judicial Council shall provide for the administration of this section.

(f) This section shall remain in effect only until July 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2013, deletes or extends that date.

SEC. 9. Section 1465.8 of the Penal Code, as amended by Section 34 of Chapter 720 of the Statutes of 2010, is amended to read:

1465.8. (a) (1) To ensure and maintain adequate funding for court security, a charge of thirty dollars (\$30) shall be imposed on every conviction for a criminal offense, including a traffic offense, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(2) For the purposes of this section, “conviction” includes the dismissal of a traffic violation on the condition that the defendant attend a court-ordered traffic violator school, as authorized by Sections 41501 and 42005 of the Vehicle Code. This security charge shall be deposited in accordance with subdivision (d), and may not be included with the fee calculated and distributed pursuant to Section 42007 of the Vehicle Code.

(b) This charge shall be in addition to the state penalty assessed pursuant to Section 1464 and may not be included in the base fine to calculate the state penalty assessment as specified in subdivision (a) of Section 1464. The penalties authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the state surcharge authorized by Section 1465.7, do not apply to this charge.

(c) When bail is deposited for an offense to which this section applies, and for which a court appearance is not necessary, the person making the deposit shall also deposit a sufficient amount to include the charge prescribed by this section.

(d) Notwithstanding any other provision of law, the charges collected pursuant to subdivision (a) shall all be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(e) The Judicial Council shall provide for the administration of this section.

(f) This section shall become operative on July 1, 2013.

SEC. 10. Section 1465.8 of the Penal Code, as added by Section 35 of Chapter 720 of the Statutes of 2010, is repealed.

SEC. 11. Section 1051 of the Probate Code is amended to read:

1051. (a) In the absence of a stipulation to the contrary between parties who have filed pleadings in a proceeding under this code, there shall be no ex parte communications between any party, or attorney for the party, and the court concerning a subject raised in those pleadings, except as permitted or required by law.

(b) Notwithstanding subdivision (a), in any case upon which the court has exercised its jurisdiction, the court may refer to the court investigator or take other appropriate action in response to an ex parte communication regarding either or both of the following: (1) a fiduciary, as defined in Section 39, about the fiduciary's performance of his or her duties and responsibilities, and (2) a person who is the subject of a conservatorship or guardianship proceeding under Division 4 (commencing with Section 1400). Any action by the court pursuant to this subdivision shall be consistent with due process and the requirements of this code. The court shall disclose the ex parte communication to all parties and counsel. The court may, for good cause, dispense with the disclosure if necessary to protect the ward or conservatee from harm.

(c) The Judicial Council shall, on or before January 1, 2008, adopt a rule of court to implement this section.

(d) Subdivisions (a) and (b) of this section shall become operative on January 1, 2008.

(e) A superior court shall not be required to perform any duties imposed by this section until the Legislature makes an appropriation identified for this purpose.

SEC. 12. Section 1826 of the Probate Code is amended to read:

1826. Regardless of whether the proposed conservatee attends the hearing, the court investigator shall do all of the following:

(a) Conduct the following interviews:

(1) The proposed conservatee personally.

(2) All petitioners and all proposed conservators who are not petitioners.

(3) The proposed conservatee's spouse or registered domestic partner and relatives within the first degree. If the proposed conservatee does not have a spouse, registered domestic partner, or relatives within the first degree, to the greatest extent possible, the proposed conservatee's relatives within the second degree.

(4) To the greatest extent practical and taking into account the proposed conservatee's wishes, the proposed conservatee's relatives within the second degree not required to be interviewed under paragraph (3), neighbors, and, if known, close friends.

(b) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the proceeding, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to

be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(d) Review the allegations of the petition as to why the appointment of the conservator is required and, in making his or her determination, do the following:

(1) Refer to the supplemental information form submitted by the petitioner and consider the facts set forth in the form that address each of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821.

(2) Consider, to the extent practicable, whether he or she believes the proposed conservatee suffers from any of the mental function deficits listed in subdivision (a) of Section 811 that significantly impairs the proposed conservatee's ability to understand and appreciate the consequences of his or her actions in connection with any of the functions described in subdivision (a) or (b) of Section 1801 and identify the observations that support that belief.

(e) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(f) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(g) Determine whether the proposed conservatee wishes to be represented by legal counsel and, if so, whether the proposed conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain.

(h) Determine whether the proposed conservatee is capable of completing an affidavit of voter registration.

(i) If the proposed conservatee has not retained legal counsel, determine whether the proposed conservatee desires the court to appoint legal counsel.

(j) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the proposed conservatee in any case where the proposed conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court.

(k) Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the proposed conservatee's express communications concerning both of the following:

(1) Representation by legal counsel.

(2) Whether the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(l) Mail, at least five days before the hearing, a copy of the report referred to in subdivision (k) to all of the following:

(1) The attorney, if any, for the petitioner.

- (2) The attorney, if any, for the proposed conservatee.
- (3) The proposed conservatee.
- (4) The spouse, registered domestic partner, and relatives within the first degree of the proposed conservatee who are required to be named in the petition for appointment of the conservator, unless the court determines that the mailing will result in harm to the conservatee.
- (5) Any other persons as the court orders.
- (m) The court investigator has discretion to release the report required by this section to the public conservator, interested public agencies, and the long-term care ombudsman.
- (n) The report required by this section is confidential and shall be made available only to parties, persons described in subdivision (l), persons given notice of the petition who have requested this report or who have appeared in the proceedings, their attorneys, and the court. The court has discretion at any other time to release the report, if it would serve the interests of the conservatee. The clerk of the court shall provide for the limitation of the report exclusively to persons entitled to its receipt.
- (o) This section does not apply to a proposed conservatee who has personally executed the petition for conservatorship, or one who has nominated his or her own conservator, if he or she attends the hearing.
- (p) If the court investigator has performed an investigation within the preceding six months and furnished a report thereon to the court, the court may order, upon good cause shown, that another investigation is not necessary or that a more limited investigation may be performed.
- (q) Any investigation by the court investigator related to a temporary conservatorship also may be a part of the investigation for the general petition for conservatorship, but the court investigator shall make a second visit to the proposed conservatee and the report required by this section shall include the effect of the temporary conservatorship on the proposed conservatee.
- (r) The Judicial Council shall, on or before January 1, 2009, adopt rules of court and Judicial Council forms as necessary to implement an expedited procedure to authorize, by court order, a proposed conservatee's health care provider to disclose confidential medical information about the proposed conservatee to a court investigator pursuant to federal medical information privacy regulations promulgated under the Health Insurance Portability and Accountability Act of 1996.
- (s) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 13. Section 1850 of the Probate Code is amended to read:

1850. (a) Except as provided in subdivision (b), each conservatorship initiated pursuant to this part shall be reviewed by the court as follows:

- (1) At the expiration of six months after the initial appointment of the conservator, the court investigator shall visit the conservatee, conduct an investigation in accordance with the provisions of subdivision (a) of Section

1851, and report to the court regarding the appropriateness of the conservatorship and whether the conservator is acting in the best interests of the conservatee regarding the conservatee's placement, quality of care, including physical and mental treatment, and finances. The court may, in response to the investigator's report, take appropriate action including, but not limited to:

(A) Ordering a review of the conservatorship pursuant to subdivision (b).

(B) Ordering the conservator to submit an accounting pursuant to subdivision (a) of Section 2620.

(2) One year after the appointment of the conservator and annually thereafter. However, at the review that occurs one year after the appointment of the conservator, and every subsequent review conducted pursuant to this paragraph, the court may set the next review in two years if the court determines that the conservator is acting in the best interest interests of the conservatee. In these cases, the court shall require the investigator to conduct an investigation pursuant to subdivision (a) of Section 1851 one year before the next review and file a status report in the conservatee's court file regarding whether the conservatorship still appears to be warranted and whether the conservator is acting in the best interests of the conservatee. If the investigator determines pursuant to this investigation that the conservatorship still appears to be warranted and that the conservator is acting in the best interests of the conservatee regarding the conservatee's placement, quality of care, including physical and mental treatment, and finances, no hearing or court action in response to the investigator's report is required.

(b) The court may, on its own motion or upon request by any interested person, take appropriate action including, but not limited to, ordering a review of the conservatorship, including at a noticed hearing, and ordering the conservator to present an accounting of the assets of the estate pursuant to Section 2620.

(c) Notice of a hearing pursuant to subdivision (b) shall be provided to all persons listed in subdivision (b) of Section 1822.

(d) This chapter does not apply to either of the following:

(1) A conservatorship for an absentee as defined in Section 1403.

(2) A conservatorship of the estate for a nonresident of this state where the conservatee is not present in this state.

(e) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2007.

(f) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 14. Section 1850.5 of the Probate Code is amended to read:

1850.5. (a) Notwithstanding Section 1850, each limited conservatorship for a developmentally disabled adult, as defined in subdivision (d) of Section

1801, shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter.

(b) The court may, on its own motion or upon request by any interested person, take appropriate action, including, but not limited to, ordering a review of the limited conservatorship, including at a noticed hearing, at any time.

(c) A superior court shall not be required to perform any duties imposed by this section until the Legislature makes an appropriation identified for this purpose.

SEC. 15. Section 1851 of the Probate Code is amended to read:

1851. (a) When court review is required pursuant to Section 1850, the court investigator shall, without prior notice to the conservator except as ordered by the court for necessity or to prevent harm to the conservatee, visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. In determining whether the conservator is acting in the best interests of the conservatee, the court investigator's evaluation shall include an examination of the conservatee's placement, the quality of care, including physical and mental treatment, and the conservatee's finances. To the extent practicable, the investigator shall review the accounting with a conservatee who has sufficient capacity. To the greatest extent possible, the court investigator shall interview individuals set forth in subdivision (a) of Section 1826, in order to determine if the conservator is acting in the best interests of the conservatee. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked. Upon request of the court investigator, the conservator shall make available to the court investigator during the investigation for inspection and copying all books and records, including receipts and any expenditures, of the conservatorship.

(b) (1) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court. A copy of the report, modified as set forth in paragraph (2), also shall be mailed to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative, unless the court determines that the mailing will result in harm to the conservatee.

(2) Confidential medical information and confidential information from the California Law Enforcement Telecommunications System shall be in a separate attachment to the report and shall not be provided in copies sent to the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and if there are no such relatives, to the next closest relative.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

(e) The report required by this section shall be confidential and shall be made available only to parties, persons described in subdivision (b), persons given notice of the petition who have requested the report or who have appeared in the proceeding, their attorneys, and the court. The court shall have discretion at any other time to release the report if it would serve the interests of the conservatee. The clerk of the court shall make provision for limiting disclosure of the report exclusively to persons entitled thereto under this section.

(f) The amendments made to this section by the act adding this subdivision shall become operative on July 1, 2007.

(g) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 16. Section 2250 of the Probate Code is amended to read:

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

(1) A temporary guardian of the person or estate or both.

(2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon that petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) If the petitioner is a private professional conservator under Section 2341 or licensed under the Professional Fiduciaries Act, Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code, the petition for appointment of a temporary conservator shall include both of the following:

(1) A statement of the petitioner's registration or license information.

(2) A statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for appointment of a temporary

conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends, unless that information is included in a petition for appointment of a general conservator filed at the same time by the person who filed the petition for appointment of a temporary conservator.

(d) If the petition is filed by a party other than the proposed conservatee, the petition shall include a declaration of due diligence showing both of the following:

(1) Either the efforts to find the proposed conservatee's relatives named in the petition for appointment of a general conservator or why it was not feasible to contact any of them.

(2) Either the preferences of the proposed conservatee concerning the appointment of a temporary conservator and the appointment of the proposed temporary conservator or why it was not feasible to ascertain those preferences.

(e) Unless the court for good cause otherwise orders, at least five court days before the hearing on the petition, notice of the hearing shall be given as follows:

(1) Notice of the hearing shall be personally delivered to the proposed ward if he or she is 12 years of age or older, to the parent or parents of the proposed ward, and to any person having a valid visitation order with the proposed ward that was effective at the time of the filing of the petition. Notice of the hearing shall not be delivered to the proposed ward if he or she is under 12 years of age. In a proceeding for temporary guardianship of the person, evidence that a custodial parent has died or become incapacitated, and that the petitioner is the nominee of the custodial parent, may constitute good cause for the court to order that this notice not be delivered.

(2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of the hearing shall be served on the persons required to be named in the petition for appointment of conservator. If the petition states that the petitioner and the proposed conservator have no prior relationship with the proposed conservatee and has not been nominated by a family member, friend, or other person with a relationship to the proposed conservatee, notice of hearing shall be served on the public guardian of the county in which the petition is filed.

(3) A copy of the petition for temporary appointment shall be served with the notice of hearing.

(f) If a temporary guardianship is granted ex parte and the hearing on the general guardianship petition is not to be held within 30 days of the granting of the temporary guardianship, the court shall set a hearing within 30 days to reconsider the temporary guardianship. Notice of the hearing for reconsideration of the temporary guardianship shall be provided pursuant to Section 1511, except that the court may for good cause shorten the time for the notice of the hearing.

(g) Visitation orders with the proposed ward granted prior to the filing of a petition for temporary guardianship shall remain in effect, unless for good cause the court orders otherwise.

(h) (1) If a temporary conservatorship is granted ex parte, and a petition to terminate the temporary conservatorship is filed more than 15 days before the first hearing on the general petition for appointment of conservator, the court shall set a hearing within 15 days of the filing of the petition for termination of the temporary conservatorship to reconsider the temporary conservatorship. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship shall be given at least 10 days prior to the hearing.

(2) If a petition to terminate the temporary conservatorship is filed within 15 days before the first hearing on the general petition for appointment of conservator, the court shall set the hearing at the same time that the hearing on the general petition is set. Unless the court otherwise orders, notice of the hearing on the petition to terminate the temporary conservatorship pursuant to this section shall be given at least five court days prior to the hearing.

(i) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(j) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

(k) On or before January 1, 2008, the Judicial Council shall adopt a rule of court that establishes uniform standards for good cause exceptions to the notice required by subdivision (e), limiting those exceptions to only cases when waiver of the notice is essential to protect the proposed conservatee or ward, or the estate of the proposed conservatee or ward, from substantial harm.

(l) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 17. Section 2250.4 of the Probate Code is amended to read:

2250.4. The proposed temporary conservatee shall attend the hearing except in the following cases:

(a) If the proposed temporary conservatee is out of the state when served and is not the petitioner.

(b) If the proposed temporary conservatee is unable to attend the hearing by reason of medical inability.

(c) If the court investigator has visited the proposed conservatee prior to the hearing and the court investigator has reported to the court that the proposed temporary conservatee has expressly communicated that all of the following apply:

(1) The proposed conservatee is not willing to attend the hearing.

(2) The proposed conservatee does not wish to contest the establishment of the temporary conservatorship.

(3) The proposed conservatee does not object to the proposed temporary conservator or prefer that another person act as temporary conservator.

(d) If the court determines that the proposed conservatee is unable or unwilling to attend the hearing, and holding the hearing in the absence of the proposed conservatee is necessary to protect the conservatee from substantial harm.

(e) A superior court shall not be required to perform any duties imposed by this section until the Legislature makes an appropriation identified for this purpose.

SEC. 18. Section 2250.6 of the Probate Code is amended to read:

2250.6. (a) Regardless of whether the proposed temporary conservatee attends the hearing, the court investigator shall do all of the following prior to the hearing, unless it is not feasible to do so, in which case the court investigator shall comply with the requirements set forth in subdivision (b):

(1) Interview the proposed conservatee personally. The court investigator also shall do all of the following:

(A) Interview the petitioner and the proposed conservator, if different from the petitioner.

(B) To the greatest extent possible, interview the proposed conservatee's spouse or registered domestic partner, relatives within the first degree, neighbors and, if known, close friends.

(C) To the extent possible, interview the proposed conservatee's relatives within the second degree as set forth in subdivision (b) of Section 1821 before the hearing.

(2) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the temporary conservatorship, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(3) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(4) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(5) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(6) Report to the court, in writing, concerning all of the foregoing.

(b) If not feasible before the hearing, the court investigator shall do all of the following within two court days after the hearing:

(1) Interview the conservatee personally. The court investigator also shall do all of the following:

(A) Interview the petitioner and the proposed conservator, if different from the petitioner.

(B) To the greatest extent possible, interview the proposed conservatee's spouse or registered domestic partner, relatives within the first degree, neighbors and, if known, close friends.

(C) To the extent possible, interview the proposed conservatee's relatives within the second degree as set forth in subdivision (b) of Section 1821.

(2) Inform the conservatee of the nature, purpose, and effect of the temporary conservatorship, as well as the right of the conservatee to oppose the proposed general conservatorship, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) If the investigator does not visit the conservatee until after the hearing at which a temporary conservator was appointed, and the conservatee objects to the appointment of the temporary conservator, or requests an attorney, the court investigator shall report this information promptly, and in no event more than three court days later, to the court. Upon receipt of that information, the court may proceed with appointment of an attorney as provided in Chapter 4 (commencing with Section 1470) of Part 1.

(d) If it appears to the court investigator that the temporary conservatorship is inappropriate, the court investigator shall immediately, and in no event more than two court days later, provide a written report to the court so the court can consider taking appropriate action on its own motion.

(e) A superior court shall not be required to perform any duties imposed by this section until the Legislature makes an appropriation identified for this purpose.

SEC. 19. Section 2253 of the Probate Code is amended to read:

2253. (a) If a temporary conservator of the person proposes to fix the residence of the conservatee at a place other than that where the conservatee resided prior to the commencement of the proceedings, that power shall be requested of the court in writing, unless the change of residence is required of the conservatee by a prior court order. The request shall be filed with the petition for temporary conservatorship or, if a temporary conservatorship has already been established, separately. The request shall specify in particular the place to which the temporary conservator proposes to move the conservatee, and the precise reasons why it is believed that the conservatee will suffer irreparable harm if the change of residence is not permitted, and why no means less restrictive of the conservatee's liberty will suffice to prevent that harm.

(b) Unless the court for good cause orders otherwise, the court investigator shall do all of the following:

(1) Interview the conservatee personally.

(2) Inform the conservatee of the nature, purpose, and effect of the request made under subdivision (a), and of the right of the conservatee to oppose the request, attend the hearing, be represented by legal counsel if the conservatee so chooses, and to have legal counsel appointed by the court if unable to obtain legal counsel.

(3) Determine whether the conservatee is unable to attend the hearing because of medical inability and, if able to attend, whether the conservatee is willing to attend the hearing.

(4) Determine whether the conservatee wishes to oppose the request.

(5) Determine whether the conservatee wishes to be represented by legal counsel at the hearing and, if so, whether the conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain or whether the conservatee desires the court to appoint legal counsel.

(6) If the conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court, determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee.

(7) Determine whether the proposed change of place of residence is required to prevent irreparable harm to the conservatee and whether no means less restrictive of the conservatee's liberty will suffice to prevent that harm.

(8) Report to the court in writing, at least two days before the hearing, concerning all of the foregoing, including the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to oppose the request.

(c) Within seven days of the date of filing of a temporary conservator's request to remove the conservatee from his or her previous place of residence, the court shall hold a hearing on the request.

(d) The conservatee shall be present at the hearing except in the following cases:

(1) Where the conservatee is unable to attend the hearing by reason of medical inability. Emotional or psychological instability is not good cause for the absence of the conservatee from the hearing unless, by reason of that instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the conservatee.

(2) Where the court investigator has reported to the court that the conservatee has expressly communicated that the conservatee is not willing to attend the hearing and does not wish to oppose the request, and the court makes an order that the conservatee need not attend the hearing.

(e) If the conservatee is unable to attend the hearing because of medical inability, that inability shall be established (1) by the affidavit or certificate of a licensed medical practitioner or (2) if the conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of that religion, by the affidavit of the practitioner. The affidavit or certificate is evidence only of the conservatee's inability to attend the hearing and shall not be considered in determining the issue of need for the establishment of a conservatorship.

(f) At the hearing, the conservatee has the right to be represented by counsel and the right to confront and cross-examine any witness presented

by or on behalf of the temporary conservator and to present evidence on his or her own behalf.

(g) The court may approve the request to remove the conservatee from the previous place of residence only if the court finds (1) that change of residence is required to prevent irreparable harm to the conservatee and (2) that no means less restrictive of the conservatee's liberty will suffice to prevent that harm. If an order is made authorizing the temporary conservator to remove the conservatee from the previous place of residence, the order shall specify the specific place wherein the temporary conservator is authorized to place the conservatee. The temporary conservator may not be authorized to remove the conservatee from this state unless it is additionally shown that such removal is required to permit the performance of specified nonpsychiatric medical treatment, consented to by the conservatee, which is essential to the conservatee's physical survival. A temporary conservator who willfully removes a temporary conservatee from this state without authorization of the court is guilty of a felony.

(h) Subject to subdivision (e) of Section 2252, the court shall also order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence.

(i) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 20. Section 2620 of the Probate Code is amended to read:

2620. (a) At the expiration of one year from the time of appointment and thereafter not less frequently than biennially, unless otherwise ordered by the court to be more frequent, the guardian or conservator shall present the accounting of the assets of the estate of the ward or conservatee to the court for settlement and allowance in the manner provided in Chapter 4 (commencing with Section 1060) of Part 1 of Division 3. By January 1, 2008, the Judicial Council, in consultation with the California Judges Association, the California Association of Superior Court Investigators, the California State Association of Public Administrators, Public Guardians, and Public Conservators, the State Bar of California, and the California Society of Certified Public Accountants, shall develop a standard accounting form, a simplified accounting form, and rules for when the simplified accounting form may be used. After January 1, 2008, all accountings submitted pursuant to this section shall be submitted on the Judicial Council form.

(b) The final court accounting of the guardian or conservator following the death of the ward or conservatee shall include a court accounting for the period that ended on the date of death and a separate accounting for the period subsequent to the date of death.

(c) Along with each court accounting, the guardian or conservator shall file supporting documents, as provided in this section.

(1) For purposes of this subdivision, the term "account statement" shall include any original account statement from any institution, as defined in

Section 2890, or any financial institution, as defined in Section 2892, in which money or other assets of the estate are held or deposited.

(2) The filing shall include all account statements showing the account balance as of the closing date of the accounting period of the court accounting. If the court accounting is the first court accounting of the guardianship or conservatorship, the guardian or conservator shall provide to the court all account statements showing the account balance immediately preceding the date the conservator or guardian was appointed and all account statements showing the account balance as of the closing date of the first court accounting.

(3) If the guardian or conservator is a private professional or licensed guardian or conservator, the guardian or conservator shall also file all original account statements, as described above, showing the balance as of all periods covered by the accounting.

(4) The filing shall include the original closing escrow statement received showing the charges and credits for any sale of real property of the estate.

(5) If the ward or conservatee is in a residential care facility or a long-term care facility, the filing shall include the original bill statements for the facility.

(6) This subdivision shall not apply to the public guardian if the money belonging to the estate is pooled with money belonging to other estates pursuant to Section 2940 and Article 3 (commencing with Section 7640) of Chapter 4 of Part 1 of Division 7. Nothing in this section shall affect any other duty or responsibility of the public guardian with regard to managing money belonging to the estate or filing accountings with the court.

(7) If any document to be filed or lodged with the court under this section contains the ward's or conservatee's social security number or any other personal information regarding the ward or conservatee that would not ordinarily be disclosed in a court accounting, an inventory and appraisal, or other nonconfidential pleadings filed in the action, the account statement or other document shall be attached to a separate affidavit describing the character of the document, captioned "CONFIDENTIAL FINANCIAL STATEMENT" in capital letters. Except as otherwise ordered by the court, the clerk of the court shall keep the document confidential except to the court and subject to disclosure only upon an order of the court. The guardian or conservator may redact the ward's or conservatee's social security number from any document lodged with the court under this section.

(8) Courts may provide by local rule that the court shall retain all documents lodged with it under this subdivision until the court's determination of the guardian's or conservator's account has become final, at which time the supporting documents shall be returned to the deposing guardian or conservator or delivered to any successor appointed by the court.

(d) Each accounting is subject to random or discretionary, full or partial review by the court. The review may include consideration of any information necessary to determine the accuracy of the accounting. If the accounting has any material error, the court shall make an express finding as to the severity of the error and what further action is appropriate in

response to the error, if any. Among the actions available to the court is immediate suspension of the guardian or conservator without further notice or proceedings and appointment of a temporary guardian or conservator or removal of the guardian or conservator pursuant to Section 2650 and appointment of a temporary guardian or conservator.

(e) The guardian or conservator shall make available for inspection and copying, upon reasonable notice, to any person designated by the court to verify the accuracy of the accounting, all books and records, including receipts for any expenditures, of the guardianship or conservatorship.

(f) A superior court shall not be required to perform any duties imposed pursuant to the amendments to this section enacted by Chapter 493 of the Statutes 2006 until the Legislature makes an appropriation identified for this purpose.

SEC. 21. Part 2.5 (commencing with Section 19201) is added to Division 2 of the Public Contract Code, to read:

PART 2.5. CONTRACTING BY JUDICIAL BRANCH ENTITIES

19201. This part may be cited as the California Judicial Branch Contract Law.

19202. The Legislature finds and declares that placing all public contract provisions for judicial branch entities in one part will make that law clearer and easier to find. Further, it is the intent of the Legislature in enacting this part to achieve the objectives as set forth in Sections 100, 101, and 102.

19203. This part shall apply to all contracts initially entered into or amended by judicial branch entities on or after October 1, 2011.

19204. (a) All judicial branch entities shall comply with the provisions of this code that are applicable to state agencies and departments related to the procurement of goods and services, including information technology goods and services. All contracts with total cost estimated at more than one million dollars (\$1,000,000), except contracts covered by Section 68511.9 of the Government Code, shall be subject to the review and recommendations of the Bureau of State Audits to ensure compliance with this part. In addition, all administrative and infrastructure information technology projects of the Judicial Council or the courts with total costs estimated at more than five million dollars (\$5,000,000) shall be subject to the reviews and recommendations of the California Technology Agency, as specified in Section 68511.9 of the Government Code.

(b) Except as provided in subdivision (c), procurement and contracting for the planning, design, construction, rehabilitation, renovation, replacement, lease, or acquisition of court facilities shall be conducted by judicial branch entities consistent with the relevant provisions of this code applicable to state agencies.

(c) Notwithstanding any other provision of law, this part does not apply to procurement and contracting by judicial branch entities that are related to trial court construction, including, but not limited to, the planning, design,

construction, rehabilitation, renovation, replacement, lease, or acquisition of trial court facilities. However, this part shall apply to contracts for maintenance of all judicial branch facilities that are not under the operation and management of the Department of General Services.

(d) Only until the Judicial Council adopts the Judicial Branch Contracting Manual required pursuant to Section 19206, judicial branch entities shall instead be governed by applicable policies and procedures in the State Administrative Manual and the State Contracting Manual, or policies and procedures as otherwise required by law to be adopted by the Department of General Services applicable to state agencies.

19205. (a) As used in this part, “judicial branch entity” means any superior court, court of appeal, the California Supreme Court, the Judicial Council, the Habeas Corpus Resource Center, or the Administrative Office of the Courts.

(b) Where there is a reference in this code to an officer or employee of a state agency, for purposes of this part, these terms shall refer to a member, judicial officer, officer, employee, or other person of a judicial branch entity, as applicable.

19206. The Judicial Council shall adopt and publish no later than January 1, 2012, a Judicial Branch Contracting Manual incorporating procurement and contracting policies and procedures that must be followed by all judicial branch entities subject to this part. The policies and procedures shall include a requirement that each judicial branch entity shall adopt a local contracting manual for procurement and contracting for goods or services by that judicial branch entity. The policies and procedures in the manuals shall be consistent with this code and substantially similar to the provisions contained in the State Administrative Manual and the State Contracting Manual.

19207. Except as provided in subdivision (a) of Section 19204 or as otherwise specifically required by law applicable to any judicial branch entity, nothing in this part is intended, nor shall it be construed, to require the approval, review, or involvement of any other state entity, including, but not limited to, the Department of General Services or the Secretary of California Technology, in the procurement of any judicial branch goods or services, including information technology goods or services.

19208. Nothing in this part is intended, nor shall it be construed to permit, the application of provisions of this code that do not apply to state agencies and departments.

19209. (a) Beginning in 2012, twice each year, the Judicial Council shall provide a report to the Joint Legislative Budget Committee that provides information related to procurement of contracts for the judicial branch. One report shall be provided no later than February 1 of each year, covering the period from July 1 through December 31 of the prior year, and the second report shall be provided no later than August 1 of each year, covering the period from January 1 through June 30 of the same year.

(b) Each of the two annual reports shall include a list of all vendors or contractors receiving payments from any judicial branch entities. For each vendor or contractor receiving any payment during the reporting period, the

report shall provide a separate listing for each distinct contract between that vendor or contractor and a judicial branch entity. For every vendor or contractor listed in the report, including for each distinct contract for those contractors or vendors with more than one payment during the period, the report shall further identify the amount of payment to the contractor or vendor, the type of service or good provided, and the judicial branch entity or entities with which the vendor or contractor was contracted to provide that service or good.

(c) Each of the two annual reports shall include a list of all contract amendments made during the report period. For each amendment, the report shall identify the vendor or contractor, the type of service or good provided under the contract, the nature of the amendment, the duration of the amendment, and the cost of the amendment.

19210. The audits required pursuant to subdivisions (h) and (i) of Section 77206 of the Government Code shall include an audit and report by the State Auditor on his or her assessment of the implementation of this part by the judicial branch. The State Auditor shall be reimbursed by the judicial branch entity that is the subject of the audit for all reasonable costs associated with conducting the audit required by this section.

SEC. 22. (a) The Judicial Council shall report to the Joint Legislative Budget Committee by January 15, 2013, on the process, transparency, costs, and timeliness of its construction procurement practices. The information in this report shall include, but not be limited to, the following for each court construction project completed between January 1, 2008, and January 1, 2013:

(1) The dates that each step of the procurement and construction process was completed, including steps involving the seeking or selection of bidders or contractors, completion of the different phases of project design and construction, and approvals by local courts, the Judicial Council, the State Public Works Board, the Governor, and the Legislature.

(2) The criteria and factors used in evaluating contractors for prequalification as well as those used to evaluate bids, as well as the number of bids received for each procurement.

(3) Identification of all project costs for each phase of design and construction, including any cost increases and reasons for those increases.

(4) Identification of the original project timeline for each phase of design and construction, as well as all project delays and the reasons associated in causing the project delays.

(5) The total project management costs incurred by the Judicial Branch, including for existing staff who worked on each project, distinguished by project activity.

(6) The total costs paid for contractors, distinguished by project activity.

(b) Within 75 days of receiving the report required under subdivision (a), the Legislative Analyst's Office shall conduct an analysis of the findings and, based on information which shall be provided by the Department of General Services, compare the costs and timeliness of methods of delivery used by the judiciary to projects of comparable size, scope, and geographic

location procured under the Public Contract Code provisions applicable to state agencies. At the request of the Legislative Analyst's Office, the Department of General Services shall provide the comparable information as that required of the Judicial Council in subdivision (a) for those projects managed by the Department of General Services.

SEC. 23. In addition to any amounts provided in the Budget Act of 2011, the sum of one thousand dollars (\$1,000) is hereby appropriated from the DNA Identification Fund to the Department of Justice for purposes of state operations in the 2011–12 fiscal year, consistent with Section 76104.6 of the Government Code.

SEC. 24. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 25. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.